

REMARKS

1. In the Claims

In the above referred Office Action, two Election/Restriction requirements were declared. The first Election/Restriction requirement was required under 35 U.S.C. 121. The second Election/Restriction requirement was based on two patentable distinct species (species of Figs. 2-7 and the species of Fig. 8).

In response to the first Election/Restriction requirement, Group 1 (Claims 1-19) is elected with traverse and Claim 20 is withdrawn. In the second Election/Restriction requirement, species of Fig. 2-7 is elected without traverse. Claims 1-10 and 12-19 encompass species 1. Claim 11 is now withdrawn.

Regarding the Election/Restriction requirement under 35 U.S.C 121, the Examiner argued that the restriction was justified because the product can be used another materially different process. In support, the Examiner stated that the track cover could be used on a non-construction track vehicle and could be transported on other transport vehicles that enabled the elongated body to lay on the trailer or bed (An LST was given as an example of a transport vehicle where the elongated body would lay on the bed or deck of the vehicle and not over the side of trailer or bed). In response, the Applicant submits that the processes recited by the Examiner (use on a 'non construction track vehicle' and on a transport vehicle such as an LST so that the elongated body lay's on the bed and not over the side of the trailer or bed are NOT material. Therefore, the restriction is not supported. In order to assist further examination however, Claim 20 has been amended so that the track vehicle is no longer recited as a 'construction track vehicle'. Also, the reference that the elongated body is 'disposed over the side of the trailer or bed' is deleted and replaced with 'disposed over the

1 side of the track.' No new matter is being introduced by this amended language.

2 2. In the Drawings:

3 The Drawings were objected to under 37 CFR 1.183(a) on the grounds that the Claim
4 20 recited the elongated body being disposed over the side of the trailer or bed which is not
5 shown in the drawings. As discussed above, Claim 20 has been amended to recite the
6 elongated body being disposed over the side of the track as shown in Figs. 1-4. The objection
7 should be withdrawn.

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9 Respectfully submitted,

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CERTIFICATE OF MAILING BY FIRST CLASS MAIL (37 CFR 1.8)Applicant(s): **RANDY JOHNSON**

Docket No.

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Application No.

10/823,070

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Examiner

SUE A. WEAVER

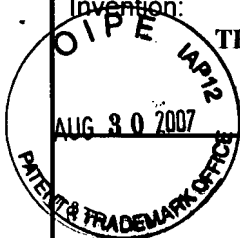
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3781

Invention:

TRACK COVERI hereby certify that this **NON-COMPLIANT AMENDMENT***(Identify type of correspondence)*

is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on **AUGUST 27, 2007**"

*(Date)***DEAN A. CRAINE***(Typed or Printed Name of Person Mailing Correspondence)*
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